UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

0 4 MAY 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Article Number: 7006 2760 0000 8644 6657

Mr. Larry Collings
Owner
Southside Repair, LLC
809 South 21st Street
Lincoln, Nebraska 68510

RE: Southside Repair, LLC
Lincoln, Nebraska

Dear Mr. Collings:

Letter of Warning/Request for Information

On October 29, 2013, a representative of the U.S. Environmental Protection Agency (EPA) inspected your facility. The inspection was conducted under the authority of Section 3007 of the Resource Conservation and Recovery Act (RCRA).

My staff has reviewed the inspection report, and your November 12, 2013, response to the Notice of Violation (NOV) and determined that violations of RCRA were documented. On January 17, 2014, the EPA sent your facility a Letter of Warning/Request for information. The EPA has received and reviewed your February 14, 2014, response to the EPA's Letter of Warning/Request for Information. We are requesting additional information regarding your facility's compliance status. Enclosed is a list of violations followed by a list of questions and/or requested information. Also enclosed are instructions to be used in providing your response. Please carefully read and follow these instructions. Your response to this request in accordance with the instructions is required by Section 3007 of RCRA and substantial penalties may result from not complying. Please note that the EPA reserves its right to pursue appropriate enforcement actions, including penalties, for violations discovered as a result of the inspection, regardless of whether the violations were subsequently corrected.

Within thirty (30) calendar days of receiving this letter, please mail your response to: Ms. Deborah Bredehoft, AWMD/WEMM, U. S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. To request an extension of the time limit, follow the instructions in the enclosure. Please direct all questions concerning this letter to Ms. Bredehoft, of my staff, at (913) 551-7164.

Sincerely,

Donald Toensing,
Chief
Waste Enforcement and Materials Management Branch
Air and Waste Management Division

Enclosures

cc: Mr. Jeff Edwards, Nebraska Department of Environmental Quality

List of Violations
Southside Repair, LLC
Lincoln, Nebraska

1. Title 128-Nebraska Hazardous Waste Regulations (Title 128), Ch. 4, 002 incorporating Title 40 Code of Federal Regulations (40 CFR) 262.11 – Failure to conduct hazardous waste determinations on the following:
    a. cloth rags, disposable wipes, and gloves;
    b. stripper contaminated pads and residue;
    c. other contaminated pads;
    d. spent lacquer thinner liquid;
    e. empty aerosol cans;
    f. spent lamps;
    g. old refinishing materials:
        i. 15, 1-gallon cans;
        ii. 15 to 20, 1-quart cans; and
        iii. 3 to 5, 8-ounce cans.

List of Requested Information
Southside Repair, LLC
Lincoln, Nebraska

1. The EPA requests that you provide the following information for each of the violations identified on the List of Violations:
    a. with regard to Violation Number 1.a., please provide the following:
        i. the Material Safety Data Sheets (MSDSs) for:
            1. Pre Cat Clear;
            2. other aerosols used with cloth rags;
        ii. within the EPA's January 17, 2014, Letter of Warning/Request for Information, the EPA asked you to state how often each of the previously identified chemicals (i.e., Mohawk Products (Blendal Powder Stain Raw Sienna, Duracoat Precatalyzed Lacquer Sealer, Pre-catalyzed Lacquer Sanding Sealer Aeros), Wil Pro M405-2006, Liq Wool Lube M720-136, Pre Cat Clear, 409 Cleaner, Xylol) are used. Within your February 14, 2014, letter, you stated "minimal use." Please provide the following:
            1. a numerical estimate of how much (i.e., approximately one teaspoon, etc.) of each of these chemicals is applied to the rags, wipes, or gloves each time one is used; and
            2. a numerical estimate of how often (i.e., once a month, etc.) each of the chemicals are used with the rags, wipes, and gloves;
        iii. within your February 14, 2014, response, you stated that these chemicals will be collected. Please state:
            1. how your facility will collect the chemicals used with the rags, wipes, and gloves; and
            2. where (name and address of the facility) the rags, wipes, and gloves contaminated with chemicals will ultimately be disposed.
    b. with regard to Violation Numbers 1.b. and 1.c., within your February 14, 2014, response, you stated that you will collect the dried waste in a closed bucket and take it to the Lancaster Waste Collection Site. Please provide the following:
        i. state if the wastes are wet when they are generated;
        ii. state if you were allowing the contaminated pads and residues to dry;
        iii. state if your facility will cease allowing its wastes to evaporate; and
        iv. state how your facility will be managing their stripper contaminated pads, residues and other contaminated pads in the future;
    c. with regard to Violation Number 1.c., the EPA previously requested that you provide the MSDSs for the various chemicals used at your facility in response to Violation Numbers 1.a. and 1.c.. Specifically for Violation Number 1.c., the EPA asked for the MSDSs for the various finishers and epoxy film used by your facility. The EPA received a number of MSDSs in your February 14, 2014, response. The EPA requests that you clarify which of the chemicals represented by the provided MSDSs were used as finishers and epoxy films with your contaminated pads;

d. with regard to Violation Number 1.d., you stated that your facility has switched from using lacquer thinner to clean your gun to "Naked Gun VOC Compliance Gun Cleaner." Within your response, you provided the MSDS for the new gun cleaner. Based on the MSDS, the waste may be a D001 hazardous waste because the virgin product has a flash point of 0°F. In your response, you stated that you are using this product in a 5-gallon drum to clean your gun. The EPA requests the following information:
    i. a complete hazardous waste determination on the Naked Gun VOC Compliance Gun Cleaner waste by providing the following information:
        1. a determination of whether or not the waste has been excluded from regulation under 40 CFR 261.4.
        2. a determination of whether or not the waste has been listed as a hazardous waste in Subpart D of 40 CFR 261. **If the waste is a listed waste, please provide the listed waste code in your response**; and
        3. a determination of whether or not the waste is identified in 40 CFR 261 Subpart C. To determine whether the waste fails any of the characteristics in Subpart C, the waste may need to be analyzed using one of the methods found in Subpart C of 40 CFR 261, or by applying knowledge of the waste characteristics based upon the materials or processes used. Any laboratory analyses used to make this determination must be provided to EPA as well as a detailed description as to how each sample was taken. The laboratory analyses required may include ignitability tests (40 CFR 261.21), corrosivity tests (40 CFR 261.22), reactivity tests (40 CFR 261.23), and/or toxicity characteristic leaching procedure (TCLP) testing. **If the waste is a characteristic hazardous waste, please provide the characteristic waste code in your response.**
        4. If your facility elects to apply knowledge to make a waste determination of the waste streams identified in Violation Number 1, you must provide a detailed explanation and your reasoning regarding the basis for this determination. MSDS may provide information to supplement your response. **Also, if you apply knowledge to make the determination, please include all hazardous waste codes for the wastes in your response.**
    ii. outline how you will dispose of any waste generated from the new gun cleaner;
e. with regard to Violation Number 1.e., in your February 14, 2014, response, you stated that you puncture the cans with an awl and remove slowly. In your response, you asked if this was an allowed practice. Please find attached the Nebraska Department of Environmental Quality's (NDEQ) Environmental Guidance Document for Aerosol Can Waste.

f. with regard to Violation Number 1.f., please provide the following information:
   i. state the type(s) of lamp(s) used by your facility;
   ii. complete a hazardous waste determination on each of the type(s) of lamp(s) used at your facility by providing the following information:
      1. a determination of whether or not the waste has been excluded from regulation under 40 CFR 261.4.
      2. a determination of whether or not the waste has been listed as a hazardous waste in Subpart D of 40 CFR 261. **If the waste is a listed waste, please provide the listed waste code in your response**; and
      3. a determination of whether or not the waste is identified in 40 CFR 261 Subpart C. To determine whether the waste fails any of the characteristics in Subpart C, the waste may need to be analyzed using one of the methods found in Subpart C of 40 CFR 261, or by applying knowledge of the waste characteristics based upon the materials or processes used. Any laboratory analyses used to make this determination must be provided to EPA as well as a detailed description as to how each sample was taken. The laboratory analyses required may include ignitability tests (40 CFR 261.21), corrosivity tests (40 CFR 261.22), reactivity tests (40 CFR 261.23), and/or toxicity characteristic leaching procedure (TCLP) testing. **If the waste is a characteristic hazardous waste, please provide the characteristic waste code in your response.**
      4. If your facility elects to apply knowledge to make a waste determination of the waste streams identified in Violation Number 1, you must provide a detailed explanation and your reasoning regarding the basis for this determination. MSDS may provide information to supplement your response. **Also, if you apply knowledge to make the determination, please include all hazardous waste codes for the wastes in your response.**
   iii. If the lamps are determined to be hazardous waste, please provide a narrative outlining how your facility will manage the lamps (i.e., universal waste, hazardous waste, etc.).

g. with regard to Violation Number 1.g., within your NOV response, you stated that the following containers were dried up:
   - 1 gallon - Morr-O-Thane Polyurethane Glass – 1/3 full – dried up
   - 1 gallon - Sherwin Williams Latex Chesnut Color – 1/8 full – dried up
   - 1 gallon – Sophir Morris Satin 1005 Acrylic Latex House Paint – Dried Up – Lump in bottom
   - 1 gallon – Sophir Morris Satin – plus Interior Latex – Dried Up – lump in bottom
   - 1 quart – PPG Pittsburgh Paint Satinhide Lo Luster Latex Enamel – Dried up in a ball
   - 1 quart – Colony Latex Gloss Enamel – Dried up in a ball
   - 1 quart – Do-it Best Latex flat wall paint – Dried up in a ball

Within your February 14, 2014, response, you stated that in the previous three months, you had disposed of three cans of completely dried up latex paint. Outlined above are the seven containers previously identified as being dried up. Please provide the following information regarding these containers:

i. state which three of these seven containers were disposed prior to your February 14, 2014, response;
ii. state if your facility has disposed any of the remaining four containers;
iii. a complete hazardous waste determination on the containers, by providing the following information:

    a. a determination of whether or not the waste has been excluded from regulation under 40 CFR 261.4.
    b. a determination of whether or not the waste has been listed as a hazardous waste in Subpart D of 40 CFR 261. **If the waste is a listed waste, please provide the listed waste code in your response**; and
    c. a determination of whether or not the waste is identified in 40 CFR 261 Subpart C. To determine whether the waste fails any of the characteristics in Subpart C, the waste may need to be analyzed using one of the methods found in Subpart C of 40 CFR 261, or by applying knowledge of the waste characteristics based upon the materials or processes used. Any laboratory analyses used to make this determination must be provided to EPA as well as a detailed description as to how each sample was taken. The laboratory analyses required may include ignitability tests (40 CFR 261.21), corrosivity tests (40 CFR 261.22), reactivity tests (40 CFR 261.23), and/or toxicity characteristic leaching procedure (TCLP) testing. **If the waste is a characteristic hazardous waste, please provide the characteristic waste code in your response.**
    d. If your facility elects to apply knowledge to make a waste determination of the waste streams identified in Violation Number 1, you must provide a detailed explanation and your reasoning regarding the basis for this determination. MSDS may provide information to supplement your response. **Also, if you apply knowledge to make the determination, please include all hazardous waste codes for the wastes in your response.**

iv. if your facility has disposed the remaining four containers, please provide the following:
    a. the (approximate) date that your facility disposed of the container(s);
    b. state where the container(s) of waste were disposed (if sent off-site for disposal, pleas provide the address);
    c. copies of any disposal paperwork (i.e., manifests, receipts, etc.);
v. if any of these containers remain at your facility, please provide the following:
    a. state what you intend to do with each container;
    b. state which containers will be disposed; and
    c. state how you will dispose the containers.

2. It was stated in your February 14, 2014, response, that approximately 80 percent of the wastes generated by your facility are generated off-site. Regarding the wastes generated off-site, please provide the following:
    a. copies of any contracts that outline how the wastes are to be managed; and
    b. if you are unable to provide any contacts outlining the management of the wastes generated, please state how you will ensure that the wastes are managed in accordance with the site's hazardous waste generator status (i.e., large quantity generator, etc.).

3007 RESPONSE INSTRUCTIONS

* Identify the Person(s) responding to this request on your behalf.

* Address each numbered item separately, and precede each answer with the number of the item to which it responds.

* For each numbered item, identify all documents consulted, examined, or referred to in the preparation of the answer, or that contain information responsive to the requested item. Provide true, accurate, and legible copies of all such documents. (If information responsive to an item is available but there are no relevant source documents, you must still provide the information.)

* For each document provided, indicate on the document (or in some similar manner) the number of the item to which it responds.

* For each numbered item, identify all persons consulted in the preparation of the answer.

* For purposes of this request, the term "you" or "your" refers to the company, corporation and any officer, principal, agent employee, or any other person(s) associated in any capacity.

* If information responsive to a requested item is not in your possession, identify the person(s) from whom the information may be obtained.

* If information that is not known or available at the time you make your response later becomes known or available to you, you must supplement your response.

* If, at any time after you submit your response, you find that any part of the information you submitted is incomplete, false, or misrepresents the truth, you must notify the EPA immediately.

* You must provide the requested information even though you consider it confidential information or trade secrets. If you want to make a confidentiality claim covering part or all of the information submitted, identify the material with words such as "trade secret," "proprietary," or "company confidential."

* The EPA will disclose this information only to the extent and by the means described in 40 CFR Part 2, Subpart B., provided that it qualifies as confidential business information.

* A request for an extension to the time limit for responding must be in writing and must be postmarked within five (5) calendar days of receipt of this information request. Address it to the person identified in the cover letter to receive your response.

* Copies of the Code of Federal Regulations may be obtained from the U.S. Government Bookstores or on the Internet at www.epa.gov/epahome/cfr40.htm.

* This request for information is not subject to the approval requirements of the Paperwork Reduction Act of 1980.

* The EPA encourages you to conserve resources. Suggested methods include use of recycled paper, printing on both sides (duplex printing), and when possible submitting documents electronically (i.e., email or compact discs). If hard copy submittals are necessary, please do not submit documents in binders.

Not responding to this information request within the stated time limit and in accordance with these instructions may subject your facility to an enforcement action which could include the imposition of penalties of up to $37,500 per violation, per day of continued noncompliance. Providing false, fictitious, or fraudulent statements or representations could lead to criminal penalties.

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

ENVIRONMENTAL GUIDANCE DOCUMENT

05-181 Revised February 2013

Aerosol Can Waste

This Environmental Guidance Document provides general and specific technical waste management guidance on aerosol can wastes. The discussion focuses on "empty" aerosol containers. Empty aerosol cans that are household waste are not considered hazardous waste.

What is an empty container?

- Title 128 – Nebraska Hazardous Waste Regulations, Chapter 2, §015 gives the definition of empty containers as it applies to the Resource Conservation and Recovery Act (RCRA). The next sentence underlines the elements of "RCRA empty." While the aerosol can might have all its contents removed using practices commonly employed to remove materials from that type of container, the generator must demonstrate that the aerosol can also has no more than one inch of residue or no more than 3% by weight of the total capacity remaining. A 16-ounce aerosol can should contain no more than 0.48 ounces of residual hazardous waste in order to be considered "RCRA empty."

Is the "RCRA empty" aerosol can a hazardous waste?

- "RCRA empty" aerosol cans are usually not hazardous waste due solely to the substances they once contained. If the empty container held a P-listed hazardous waste then the can would be P-listed (Title 128, Chapter 2, §015.05) until it was rendered empty by triple rinsing the contents (Title 128, Chapter 2, §015.05). Though, a P-listed aerosol product would be very rare.

- The "RCRA empty" aerosol can of and by itself is usually considered hazardous waste because it exhibits the characteristic of reactivity (D003). That is, it is capable of detonation or explosive reaction if it is subjected to a strong initiating source or it is heated under confinement (Title 128, Chapter 3, §009.01F). The empty aerosol cans generated in a month would normally need to be included in a facility's monthly hazardous waste totals unless they are managed as scrap metal. The characteristic of reactivity can generally be removed if the aerosol can is safely depressurized or emptied via puncturing. (see below)

- Title 128, Chapter 2, §015 excludes from hazardous waste regulation hazardous waste remaining in a "RCRA empty" container. If material is removed from the container that material no longer meets the exclusion condition as stated unless it is a U or P listed commercial chemical product. Title 128, Chapter 3, §015.03 states commercial chemical product residue remaining in a "RCRA empty" container cannot be U or P-listed hazardous waste.

- Note: An aerosol can that is not "RCRA empty" is almost always a D003 reactive waste, but it is also very often a hazardous waste due to the contents of the can. Three examples of cans that are often thought to be "empty" but are not are 1) an aerosol can that has lost its spray cap before the can has been used up, 2) an aerosol can that becomes clogged and fails to spray before the contents are used up, or 3) an aerosol can that the user just doesn't want any more before the contents are used up.

- Scrap Metal. If the aerosol can is essentially empty (no significant amount of liquid) and is being recycled for scrap metal, then it may be excluded from being hazardous waste and the issue of reactivity is moot. Unpunctured aerosol cans may be managed as scrap metal if they are "RCRA empty." Some scrap dealers will not accept "RCRA empty" cans that are not punctured. In this case, unpunctured "RCRA empty" cans may still be managed as scrap metal prior to puncturing because the hazardous waste regulations allow altering scrap metal on-site to enhance its value or to improve its handling.

    - Puncturing a "RCRA empty" aerosol can is considered processing and creates "excluded scrap metal" that is excluded from the definition of solid waste. (See Title 128, Chapter 2, §002.08, §002.09, and §008.14.)

    - An unpunctured "RCRA empty" aerosol can prior to puncturing is unprocessed scrap metal if it will be sent off as scrap metal. That can is also exempt from hazardous waste regulation per Title 128, Chapter 7, §002.03. In this case the scrap metal is still a solid waste with a specific exemption and is subject to speculative accumulation.

    - Caution: In order for an aerosol can to be eligible for any scrap metal exemption, it first must be "RCRA empty." If any aerosol cans are found in a container or pile of scrap metal that are not "RCRA empty," there could be an assumption that hazardous waste is being improperly managed and disposed.

    - The puncturing of a non-empty aerosol can in order to empty the container is analogous to pouring a can of acetone into a suitable container and then placing the "RCRA-empty" container in the trash as a non-hazardous waste (Title 128, Chapter 2, §015). That said, a hazardous waste or a container of hazardous waste comingled with scrap metal is allowed so long as appropriate small quantity generator (SQG) or large quantity generator (LQG) accumulation requirements are met for the container of comingled scrap and the hazardous SQG or LQG waste, assuming the materials are compatible. An example of this would be a container of "RCRA-empty" aerosol cans comingled with aerosol cans that are not empty but otherwise unwanted or unusable.

Who is affected?

- Once you've determined the aerosol cans are hazardous waste, you need to determine your generator status. Household hazardous waste is not regulated under RCRA. Conditionally exempt small quantity generators (CESQG) are not subject to any of the land disposal restrictions described below. A CESQG generates a total of 100 kilograms (220 lbs) or less of hazardous waste in a month. CESQGs are not subject to any of the SQG or LQG hazardous waste accumulation and labeling requirements or the hazardous waste manifesting requirements. A SQG generates between 100 kilograms (220 lbs) and 1000 kilograms (2,200 lbs) of hazardous waste in a month. A LQG generates 1000 kilograms (2,200 lbs) or more of hazardous waste per calendar month.

What can you put in the trash?

- CESQGs may send up to 19.5 kg (43 lbs) of hazardous waste to a regulated municipal landfill per day, up to a total of 100 kg (220 lbs) per month. Check your local landfill first. Some landfills, counties, and municipalities have more restrictive rules regarding waste disposal. This means a CESQG may place its unpunctured, "RCRA empty" aerosol cans in the trash if they have landfill approval. The department encourages recycling empty aerosol cans as scrap metal whenever feasible.

- Punctured and drained aerosol cans may be disposed in the trash. This applies to hazardous waste generators of all sizes. This does not apply to aerosol cans that contained acutely hazardous waste (P-listed). The department encourages recycling the empty aerosol cans as scrap metal whenever feasible.

- Small quantity and large quantity generators of hazardous waste must manage unpunctured, "RCRA empty" and non-empty aerosol cans, at a minimum, as D003 reactive hazardous waste or as scrap metal. SQGs and LQGs must not place these aerosol cans in the trash.

What about aerosol can puncturing?

The following discussion applies to aerosol cans not being managed as scrap metal.

- Aerosol can puncturing devices may be used to completely empty aerosol cans and also make them non-reactive. This is an allowed form of treatment if the puncturing operation is performed in a closed container. Most of the commercially available aerosol can puncturing systems meet this criteria. A punctured and drained aerosol can no longer exhibits the characteristic of reactivity and may be disposed in the trash. The exception is unless the aerosol can held an "acutely hazardous" material (this would be extremely unusual), which must be treated as hazardous waste due to its association with a P-listed waste. The department recommends recycling drained aerosol cans rather than disposing them.

    - If a SQG or LQG is treating aerosol cans to remove the characteristic of reactivity, the generator must develop and follow a written waste analysis plan (WAP) according to the land disposal restrictions (LDRs). The plan must be kept on site. See Title 128, Chapter 20, §005.01E1 for the WAP contents. Note: There is no need for a WAP if only legitimate scrap metal aerosol cans are being punctured – these cans are not hazardous waste.

    - Puncturing the can causes deactivation of the characteristic of reactivity and meets the DEACT treatment requirement of Title 128, Chapter 20, Table 9, Waste Code D003, "Explosives Subcategory based on Chapter 3, §009.01F through 009.01H." This is a LDR treatment standard.

    - Since a "RCRA empty" aerosol can, by definition, cannot contain hazardous waste, the can itself does not have any underlying hazardous constituents. Therefore, there are no Section 012 standards to meet as shown in the Non-wastewaters column for this Subcategory of D003 waste.

    - If the aerosol can was not "RCRA empty" prior to puncturing, the puncturing step creates a "RCRA empty" container that is not reactive and excluded from further hazardous waste regulation. As a result, there is no requirement to identify or treat for underlying hazardous constituents as stated in the Non-wastewaters column for this Subcategory of D003 waste.

    - The WAP should include the above discussion.

- There is no requirement to discuss detailed chemical analysis in the WAP for simple deactivation (DEACT) done by puncturing an aerosol can to render it non-hazardous and to meet LDR treatment standards.
- Once the can no longer exhibits a characteristic of hazardous waste and meets the land disposal restrictions, a one-time notification and certification must be placed in the generator's files and also sent to the NDEQ Waste Management Section if the punctured cans go to a landfill. See Title 128, Chapter 20, §006.04 et al. for a full description of the requirements. If you do send the punctured cans to a landfill, do not forget to include in your notification the name of the landfill receiving your waste. Note: This paragraph does not apply if the punctured cans are managed as scrap metal.

- The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires empty pesticide containers be disposed per label instructions. If the label states not to puncture, then do not puncture. Pesticides include insecticides and herbicides. FIFRA applies to all hazardous waste generators including CESQGs.

More aerosol can puncturing considerations.

- The contents collected in the aerosol can puncturing drainage collection drum need to be correctly characterized. All waste generators must determine the quantity of hazardous waste they generate in a calendar month.
  - A log may be kept listing what chemicals are being placed in the drum. It is important the facility not only be able to state the correct waste codes, but also be able to identify all underlying hazardous constituents (UHCs) when that is appropriate (Title 128, Chapter 20, §006.01). Identification of UHCs is another LDR requirement and does apply to most characteristic hazardous waste that is drained into the drainage collection drum.
  - Without a good accounting system, a facility may put itself in the position of violating land disposal restriction regulations. (Conditionally exempt small quantity generators are not required to meet land disposal restrictions.)
  - In the event that a log was not kept, or there is some confusion as to the actual contents of the aerosol can puncturing drainage collection drum, the contents must by properly characterized via laboratory analysis. Collect a waste sample from the drum using a disposable Coliwasa (composite liquid waste sampler) tube that extends to the bottom of the container. Ship the waste for disposal only after you have received the analytical results for the waste, and are satisfied that the results are accurate and defensible.

- While not required by Title 128, we recommend a volatile organic compound (VOC) filter be used on the collection drum to control VOCs.
  - If used, the filter should be changed before it becomes ineffective.
  - The spent filter requires a waste determination. Test for any hazardous waste toxicity characteristic (TC) constituents that are present in the products that are collected from the empty aerosol cans. TC hazardous wastes are those 40 chemicals on Table 3 of Title 128, Chapter 3. For example, if empty aerosol paint cans contained methyl ethyl ketone (MEK), the MEK would normally be expected to be present in the VOC filter at some level. MEK is a TC contaminant, hazardous waste number D035.

- Aerosol can puncturing collection drums may be managed as a satellite accumulation container per Title 128, Chapter 9, §007.04. The waste must be accumulated at or near the point of generation under the control of the operator or operators of the process generating the waste. An aerosol can puncturing operation may meet satellite accumulation requirements if persons assigned to handle empty aerosol cans perform the operation. The collection drum must also be in an area so that the collection container is under their control.

- The collection container must be closed unless adding or removing waste. This is true for all hazardous waste accumulation containers at SQGs and LQGs. The department generally considers such drums closed if the puncturing device lid is closed and secured by the setscrew and a VOC filter is in place. Once full the collection container must be closed and moved to a hazardous waste storage area until it is characterized (see above). Hazardous waste storage requirements for CESQGs, SQGs and LQGs apply.

Waste codes.

- Material removed from a "RCRA empty" aerosol container.

    - If the removed material exhibits a hazardous waste characteristic (ignitable, reactive, corrosive, or toxic), it is considered newly generated characteristic hazardous waste. The waste is considered to be generated at the time the can was punctured. The appropriate waste codes must be used and UHCs identified as appropriate. Even CESQGs must count any hazardous waste generated towards their monthly total.

    - Residue coming from a container that has held a commercial chemical product (CCP) does not carry a U or P listing if the container was already "RCRA empty" (Title 128, Chapter 3, §015.03). However, if the residue exhibits any characteristic of hazardous waste such as ignitability or toxicity, then the contents would be hazardous waste due to the characteristic(s) regardless of any listing.

- Material removed from an aerosol container that was not "RCRA empty."

    - If the removed material exhibits a hazardous waste characteristic (ignitable, reactive, corrosive, or toxic), it is considered newly generated characteristic hazardous waste. The waste is considered to be generated at the time the can was punctured. The appropriate waste codes must be used and UHCs identified as appropriate. Even CESQGs must count any hazardous waste generated towards their monthly total.

- If the removed materials are CCPs, these would be "U" or "P" listed wastes. For example: If a non empty aerosol can of "Acme Super Solvent" composed of trichloroethylene were punctured, the correct waste code for the disposed residual solvent would be U228, not F001 or F002. (Remember, the solvent coming out of the punctured aerosol can is not a "spent" solvent -- it is unused, but still usable solvent.) Also note that CCPs on the "U" or "P" lists are technical grade ("pure") or sole active ingredient. Using the same example, if the MSDS of the above "Acme Super Solvent" trichloroethylene aerosol showed both trichloroethylene and carbon dioxide, it would be a U228 because the CO2 is not an active ingredient -- it is a propellant, and the trichloroethylene is the solvent – the sole solvent. On the other hand, if an aerosol can held two active ingredients, the disposed solvent is not "U" or "P" listed waste. For example, if the aerosol can held spray solvent and the ingredients were xylene, toluene, and CO2, the disposed solvent would not be U239, U220, F003, or F005. The disposed solvent would be a D001 hazardous waste for ignitability. Even CESQGs must count any hazardous waste generated towards their monthly total.

Final Thoughts:

Note that CESQGs are not required to meet hazardous waste storage requirements if the total facility accumulated CESQG hazardous waste is less than 1,000 kg (2,200 lbs). However, as a best management practice, the department recommends CESQGs routinely manage their hazardous waste as close to SQG requirements as practical. In addition to safer management of hazardous materials, this practice also serves to keep the generator in compliance if it becomes an episodic SQG.

HELPFUL WEB SITES:

- Title 128 – Nebraska Hazardous Waste Regulations: http://deq.ne.gov/ and click on "Rules and Regulations"
- MSDS information: *http://www.ilpi.com/msds* (NDEQ does not endorse any public or private website.)

CONTACTS:

• NDEQ Hazardous Waste Compliance Assistance	(402) 471-8308
• NDEQ Waste Management Section	(402) 471-4210
• NDEQ Toll Free Number	(877) 253-2603

Produced by: Waste Management Section, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, NE 68509-8922; phone (402) 471-4210. To view this, and other information related to our agency, visit our web site at http://deq.ne.gov/. This material is intended for guidance purposes only. It is not meant to substitute for the regulations found in Title 128 – Nebraska Hazardous Waste Regulations or other applicable Nebraska environmental regulations.